

a variety of ways. It requires a comprehensive inventory of the oil and natural gas under the waters of the Outer Continental Shelf to inform decisions about where leasing is likely to be most productive. To improve the efficiency of the permitting process for development on Federal lands and waters, permit coordination offices are reauthorized, and a new coordination office is established for the Alaska region of the Outer Continental Shelf.

Two provisions facilitate the transportation of Alaska's abundant oil and gas resources. The amount of Federal guarantee instruments is increased to support the construction of an Alaska natural gas pipeline and the Trans-Alaska oil pipeline system is exempted from certain requirements that unnecessarily slow the permitting process.

Coproduction of geothermal energy by existing oil and gas leaseholders is encouraged by making leases available for that purpose on a noncompetitive basis.

Finally, the bill will potentially contribute millions to the Federal Treasury by repealing the current law that requires the Secretary of the Interior to give relief from royalty payments to certain offshore oil and gas production. This bill would allow the Secretary to provide such relief in appropriate circumstances, but it would not require such relief. This avoids inappropriate giveaways of taxpayer-owned oil and gas resources to industry when it is unnecessary for us to maintain robust domestic production.

These provisions are drawn almost verbatim from S. 1462 which was reported by our committee on a bipartisan basis in the last Congress. The one significant change is that certain funding for the offshore oil and gas inventory provided by S. 1462 is redirected by the committee in subsequent legislation to be used for research on safety issues related to offshore oil and gas drilling. To avoid spending the same money twice, we have eliminated that funding here so it could be included in offshore safety legislation. At the same time, the bill retains the authorization of significant appropriations to be used for this oil and gas inventory.

The Outer Continental Shelf Reform Act is the other bill I am introducing. It is a verbatim reproduction of S. 3516 which was reported unanimously by our Energy Committee in the last Congress. Because of the widespread support for this bill, I have reintroduced it exactly as reported, since I believe it is a good place to begin our work this year. It will need a bit of updating as we move forward. A few of the provisions have largely been overtaken by events and we have learned from the President's Oil Spill Commission and others about some refinements we should make in this legislation.

I have been having discussions with Senator MURKOWSKI and others who supported last year's bill and I will continue those discussions as we move

forward. I hope we will have the same strong bipartisan support for these efforts as we did last year when we reported this bill during the midst of the worst oilspill in our Nation's history. Our commitment to responsible operations in the gulf and protection of our citizens and communities should be well understood by all.

This bill is intended to respect those who lost their lives in the Deepwater Horizon accident and respect the people of the gulf who have suffered serious economic and emotional harm by doing what we can to create a better future for them. It is the particular responsibility of the Committee on Energy and Natural Resources to look at the future of the regulatory agency and the industry it regulates. As I said last year when we introduced this bill, our goal must be, of course, to prevent future disasters, but we can and must do more than that. Congress should create organizational resources and a set of requirements that will have safety and environmental protection and innovation at their core. We should require that both industry and agency employees have the expertise, the experience, and the commitment to quality that is necessary to handle the complex issues involved, and we should set principles in place to create a culture of excellence for the regulatory agency and for the industry that will be a model for the entire world.

Thus, this bill reforms the structure of the offices of the Department of the Interior dealing with offshore oil and gas leasing and development to avoid organizational conflicts of interest. It clarifies the breadth of the Department's responsibilities in managing the resources of the Outer Continental Shelf.

It increases the safety requirements for exploration and well drilling and production. It mandates use of best available technology, an evidentiary safety case, and a risk management system that identifies and addresses hazards in advance and manages for change. It provides for third-party review by qualified parties outside the agency of key equipment and well design.

It addresses the essential need for the Department of the Interior to have in-house research capacity on both the safety and the marine environment issues necessary for the exercise of its regulatory authority. Research departments in these areas will no longer be optional, but are required, and funding is redirected from other areas of research to ensure this will happen.

In order to ensure that the rules are enforced, the bill requires the collection of fees from industry to fully fund the necessary teams of inspectors. It provides for independent investigations of accidents and the sharing of data so that all can learn from mistakes. It also provides the Department of the Interior with adequate time to carry out necessary reviews and it makes the input of other Federal agencies occur

in a transparent way. And it increases the civil and criminal penalties applicable to violations of the law and regulations.

I believe these policies and resources can set us on a new and constructive path toward managing the incredible natural resources we have on the Outer Continental Shelf. We must commit ourselves to the goal of excellence in this important endeavor. The fact that oil is no longer gushing into the Gulf of Mexico in no way diminishes the importance of this work.

Both of these bills address issues of great national importance. We will shortly be scheduling the necessary hearings and preparing these bills for committee consideration. If at all possible, we will do so before the Memorial Day recess. I look forward to working with my colleagues on the Energy and Natural Resources Committee and in the rest of the Senate on a bipartisan basis as we have in the past to address the vital issues presented by both of these bills.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:36 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

EXECUTIVE SESSION

NOMINATION OF EDWARD MILTON CHEN TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Edward Milton Chen, of California, to be United States District Judge for the Northern District of California.

The PRESIDING OFFICER. Under the previous order, there will be 3 hours of debate equally divided in the usual form.

The Senator from Iowa is recognized. Mr. GRASSLEY. We are on the nomination; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, I rise today to speak in opposition to Magistrate Judge Chen, the President's

nominee for the Northern District of California. Before I address Judge Chen's nomination, I wish to say a few words about our progress on judicial nominations.

At the beginning of this Congress, I told the chairman that I would work with him to process consensus nominees at a fair and reasonable pace. Thus far this Congress, I have worked very hard and in good faith to do just what I promised. We have confirmed consensus nominees with a particular focus on nominees in so-called judicial emergencies. I made that commitment to the chairman, and I have kept it.

The Senate has been in session for only 46 days this Congress. In that short period, we have confirmed 20 judges. We confirmed three judges last week. In fact, thus far we have taken positive action on 43 of 71 nominees who have been submitted to this Congress by the President—20 have been confirmed, 13 have been reported out of committee, and 10 have had hearings in the committee. All totaled, we have taken positive action, then, on 61 percent of the judicial nominees submitted by the President during this Congress.

Despite my good-faith efforts, my colleagues from the other side continue to accuse us of not moving quickly enough. And, I might add, the White House Counsel continues to state publicly that we are not moving fast enough. Recently, the President's top lawyers spoke to a group of ABA members and asked them to "bring home the impact or the effects of gridlock." The President's lawyer neglected to tell the American Bar Association that the problem begins at the White House. In other words, the Senate cannot act on nominees for judicial appointments if the President has not processed them and sent them to the Senate. The President has failed to send to the Senate a nomination for 50 percent of the current judicial nominees. Yet we have his White House Counsel telling the American Bar Association: Get on top of the Senate and tell them to get their job done, when we have processed 61 percent of the ones who are up here and done it in the 46 days we have been in session. Somehow they expect us to process nominees who have not been submitted to the Congress. That is not possible. This statistic certainly does not indicate a sense of urgency on the part of the White House—in other words, the fact that the Senate has not even received 50 percent of the nominees for those vacancies.

Notwithstanding my efforts to work together, the majority insists on taking detours and throwing up roadblocks to this cooperative effort. For example, last week, after moving forward with two district court judges, the majority leader filed cloture on one of President Obama's most controversial nominees, Mr. Jack McConnell. This week, the majority leader has turned to two more of the President's controversial nominees. Last night, we

defeated a cloture motion for Mr. Cole, the President's nominee for Deputy Attorney General, and today we turn to Judge Chen. Of course there are non-controversial nominees the Senate could turn to. We could confirm additional district judges as we have been doing. But rather than continuing to move forward with the consensus nominees, the other side has chosen to turn to the President's most controversial nominees.

I must say this makes it extremely difficult to continue to work in a good-faith effort to move forward on non-controversial nominees. From our perspective, it appears that the more we try to work with the majority, the more we are accused of not moving fast enough. The test, I guess, is in the pudding and the general counsel for the White House telling the American Bar Association lawyers to get on the Senate to get more nominees confirmed. The more we try to move consensus nominees, the more the other side insists on moving the President's most objectionable nominees.

Judge Chen is not a consensus nominee. His nomination was considered during the last Congress and was voted out of committee on a party-line vote. The nomination was returned to the President on more than one occasion. Despite our repeated and consistent opposition, the nomination was resubmitted this year. Again it was reported out on a 10-to-8 party-line vote. Yet, despite the unanimous Republican opposition to the nominee, we have agreed to a short time agreement rather than engage in extended debate on this nomination.

With that, I have some remarks regarding Judge Chen's nomination. At the outset, let me emphasize the basis of my opposition. It is based on Mr. Chen's judicial philosophy, on his own statements, and on his record. It is absolutely critical that our judges remain impartial. That is the independence of the judiciary. That is why it is independent. Their job is to interpret law, not to make law. Our system depends upon this independence and impartiality. For that reason, when judges put on a robe for the first time, they take a solemn oath that they will remain impartial. They swear that they will administer justice "without respect to persons and do equal right to the poor and to the rich." That is why we want to make sure judges we confirm will set aside their personal opinions. We do not want their personal views to influence how they do their job. They are supposed to decide cases based on facts and on law and nothing else.

Unfortunately, there are some who believe that this notion of impartiality is somehow just plain old-fashioned and outdated. They believe judges should not be limited to the facts and the law. Instead, they believe judges should look at the litigants themselves. The President seems to take this view. This is the heart of the so-

called empathy standard. The problem, of course, is that empathy for one litigant is a bias against the other. But Mr. Chen appears ready and willing to adopt and to apply the so-called empathy standard. He appears to be a member of the camp who believes that being completely impartial is just an old-fashioned view of judging.

In 2003, as a sitting Federal magistrate judge, he wrote an article that summed up his view, and I want to quote it. It is fairly long.

Judges have to make determinations that draw not so much upon legal acumen, but on an understanding of people and of human experiences. Such experiences inform assumptions that affect legal decisions. . . . Simply put, a judge's life experiences affect the willingness to credit testimony or understand the human impact of legal rules upon which the judge must decide. These determinations require a judge to draw upon something that is not found in case reports that line the walls of our chambers. Rather, judges draw upon the breadth and the depth of their own life experience, upon the knowledge and understanding of people, and of human nature.

I am sure John Marshall would turn over in his grave if he heard that about modern 20th-century and 21st-century judges.

The problem with this approach is that it is the exact opposite of what judges are supposed to be. Judges are supposed to determine the facts and apply the law. That is what their oath demands, and that is what judges must do for our judicial system to remain independent and impartial.

In addition to allowing empathy to affect his decisionmaking, Judge Chen appears willing to inject his personal views into judging. Both his writing and public comments while as a magistrate judge suggest that Judge Chen believes judges should interpret the law according to their personal understandings and preferences. This is a classic definition of judicial activism.

For example, in discussing his work as a magistrate judge, he stated in a speech in 2007 before the American Constitution Society that he finds "most rewarding . . . contributing to the development of the law via published opinion, especially if it comports with my view of justice." Again, the problem here is that a judge's view of justice is very irrelevant. Judges are not policymakers. That is what we are in the Congress of the United States. Judges are called on to decide the facts and to apply the law. Their own view of justice is simply not relevant.

Given that Judge Chen believes a judge's personal views and experiences impact their decisions, it becomes important for us to understand his views and how they were shaped. Prior to becoming a magistrate judge, Judge Chen worked as a staff attorney at the ACLU for over 15 years. He was an advocate for the ACLU. He took very liberal positions on a variety of issues. I would like to name just a few. He opposed private drug testing, he opposed antigang injunctions, he defended affirmative action, he harshly criticized English-

only measures, and he argued that Alabama should be forced to give driving tests in languages other than English.

Those who have defended Judge Chen's nomination have argued that we should not consider his work for the ACLU. As I said, we have confirmed other nominees with strongly held personal views. But when a nominee says that personal views and experiences should and will influence how they approach cases, it becomes difficult to overlook their work on behalf of an organization such as the ACLU.

Judge Chen's advocacy on behalf of the ACLU is not disqualifying in and of itself. But it is hard to imagine why Judge Chen would devote so much of his professional career to the ACLU causes if he did not believe in them deeply. More importantly, given that in Judge Chen's view, personal views and personal experiences should influence how a judge decides cases, we have no choice but to examine Judge Chen's personal views and experiences, including his work at that organization.

For these reasons and others, I oppose this nomination. If Judge Chen is confirmed today, I sincerely hope he will prove me wrong. I sincerely hope he will set aside his personal views and make decisions based solely on the facts and on the law. But based on the record before this Senator, I fear he will not be able to do so. Therefore, I will vote no on his confirmation.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Tennessee.

TENNESSEE FLOODING

Mr. ALEXANDER. Mr. President, on Friday, I visited Memphis to see the flooding along the Mississippi River myself, to meet with volunteers who were helping, and to see the tremendously well coordinated efforts of emergency workers who are meeting and working every day, long into the evenings, and have been doing so for the last few weeks and will continue to do so for the next several weeks.

I want to make sure that as the Federal Government's role for helping arrives, we are doing everything we should be doing. It is quite a sight in Memphis. The Mississippi River today is 14 feet above flood stage. It is at a level that nearly equals the level in 1937. The river is normally a half mile wide. Today it is 3 miles wide. A great many people in Tennessee and Arkansas have been evacuated because their homes are flooded with water.

As we saw a year ago in the Tennessee floods, which stretched from Nashville to Memphis, and as I saw last Monday in Hamilton County near Chattanooga, Tennesseans know how to respond to this kind of tragedy. They are doing it again by helping one another and helping to clean up rather than complaining and looting. It is an impressive sight. Bob Nations, who is the director of the Shelby County Emergency Management Agency, presides over daily meetings of maybe 50 or 60 people from a variety of volunteer

and governmental organizations, who are carefully coordinated to deal with everything from watching the levees, to looking for sand boils, to helping people evacuate, to dealing with utilities that may be threatened by flooding. He is doing a tremendous job.

COL Vernie Reichling, commander of the Memphis District Corps of Engineers, was there on Friday. He has had a tough couple of weeks. He was the one who had to blow up a levee in Missouri which hurt families in that area but saved towns, whole towns that are down river along the Mississippi River from irreparable damage, in northwest Tennessee and also in Missouri. He was there providing us with the latest information. Overall the Corps' work has been exemplary. So far none of the levees around Memphis has been breached, and it appears none will be breached, despite the high water.

The National Weather Service, both State and local officials have been an important part of the efforts. The University of Memphis has contributed daily maps that will predict where the water will go, which have proved to be fairly accurate, which is enormously helpful to volunteers and others as they find a way to help people evacuate when they need to be evacuated, or before they need to be evacuated.

I visited with volunteers who were filling sandbags near the Pyramid. These included off-duty military personnel from the Navy base nearby. These included people from land that is going to stay dry in other parts of Shelby County. They knew someone needed to help. I traveled to Mud Island where the flood waters were continuing to rise. Officials predict as many as 3,000 properties and 6 schools may be affected by the flooding. One of the most impressive stories is that of Hope Presbyterian Church and its pastor, Dr. Craig Strickland. The church has organized up to 13 shelters, each of which could hold 150 to 200 individuals. Two of them were filled when I was there on Friday. More of them are filling up. All of this is being done without any cost to the government, without any cost to the individuals who are being sheltered there. It is all being provided by the churches and synagogues of Memphis. Reverend Strickland and Hope Presbyterian Church deserve enormous credit for the role they are playing, along with others, in Shelby County.

The Federal Government, through the efforts of the Corps, is leading the fight. This is the largest flood in the history of the Mississippi River and Tributaries project. The Mississippi is the third largest watershed. The problem is it received 600 percent more rainfall than it normally does in a span of 2 weeks. The Corps says it came in all the wrong places. Over 4 million people are protected by the comprehensive Mississippi River and Tributaries Project. It is being tested in ways that it never has before. But the system so far is performing as designed. The

Corps has made some tough choices that I talked about earlier. It is going to continue to need to make tough choices as the water moves south.

The Memphis District has been fighting the flood since the 24th day of April, relying on 500 people working 24 hours a day around the clock. The Federal Government, through FEMA, the Federal Emergency Management Agency, is also helping State and local officials evacuate those in harm's way in advance of the floodwaters.

Governor Haslam of Tennessee requested, and our entire delegation has supported, our State's request for emergency evacuation assistance to help move residents in Dyer, Lake, Shelby, and Stewart Counties to higher ground.

The President responded quickly, and we thank him for that. Over the weekend, the congressional delegation also supported Governor Haslam's request for Federal assistance to help victims in 15 counties recover from the flood and severe storms that began impacting our State on April 19.

Actually this is a different sort of request. The first was evacuations; this is to help those recover. The record rainfall and flooding has only added to the devastation caused by the storms. Last night I learned the President has approved Tennessee's request to make individual and public assistance available to families in the hardest hit areas.

I would say to the Tennesseans who are affected by this, now that the President has approved opportunities for individual assistance, I hope they will take advantage of this. There is a telephone number to call. It is 1-800-621-FEMA. That is 1-800-621-3362. Unfortunately, we have had some experience with this telephone number in Tennessee in the last year. The floods that came exactly a year ago, which hit counties from Nashville to Memphis, produced enormous devastation, \$2 billion alone in Davidson County. What we found with FEMA, once the President had granted the assistance, that Tennesseans who called that telephone number got a quick response, usually had an inspector there within a few days, and in most cases where there was damage, received a check of up to \$30,000 within a few days. We hope that happens again, although we understand there is terrible devastation in hundreds of counties right now around the country, especially in Alabama and the eastern part of Tennessee. But I want to make sure that residents and neighbors in Tennessee know that the FEMA number, 1-800-621-FEMA, is available now to be called.

The first thing they will do is ask for your ZIP code. After that, they will have a chance to provide help. The most important thing that Tennesseans can do in preparation for that is to document the loss.

This flood will impact our State for weeks. The river only crested last night, the second highest flood stage

ever recorded. It will take days for the waters to recede. Only then will we know the true extent of the damage. The volunteers and the emergency crews and the church shelters will be open for a long time after today.

I am proud of the Tennesseans who are responding, from the Corps of Engineers' personnel, to the Hope Presbyterian Church shelters, to the professionals with Mr. Nations. It is an admirable sight.

Senator CORKER and I and our entire delegation are working together to make sure that we do all we can to expedite Federal help in response to this historic disaster that has occurred in the western part of our State.

I ask unanimous consent that two letters I am passing to the desk be printed in the CONGRESSIONAL RECORD immediately following my remarks. They are the two letters our delegation has sent to the President making a request for a declaration for disaster assistance.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, May 7, 2011.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the State of Tennessee, we urge you to approve Governor Bill Haslam's request to declare a major disaster due to severe storms, straight-line winds, tornadoes, flash flooding and river flooding that began on April 19, 2011.

Residents all across our State are faced with devastation from multiple disasters, and Governor Haslam has determined that this incident has caused so much damage that federal assistance is necessary. Flooding along the Mississippi River has compounded the impact of the storms that swept across the Southeast, and will continue to impact our State for weeks. Thousands of our constituents are now dealing with the challenge of rebuilding their homes, while many in West Tennessee are still under the threat of catastrophic flooding.

The Governor's request specifically seeks Public Assistance for all categories, under the provisions of Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, for Benton, Carroll, Crockett, Dyer, Gibson, Henderson, Henry, Houston, Lake, Lauderdale, Madison, Montgomery, Obion, Shelby and Stewart Counties, as well as state-wide assistance through the Hazard Mitigation Grant program. This assistance is critical to help local governments begin debris removal and start putting their communities back together.

In addition, the State is seeking Individual Assistance for Dyer, Lake, Obion, Shelby and Stewart Counties, making residents of these counties eligible for the Individuals and Households Program, Disaster Unemployment Assistance, Crisis Counseling, the Supplemental Nutrition Assistance Program, Disaster Legal Services and Small Business Administration disaster loans. Without this federal assistance, many families will simply not be able to recover.

Officials with the Federal Emergency Management Agency have been working with State and local officials since the beginning of this incident, and we are grateful for their efforts to respond to Tennessee's needs. We ask that you consider our State's request as

soon as possible, and our offices can provide you with any additional information should you have any questions.

Sincerely,

Lamar Alexander, U.S. Senator; Bob Corker, U.S. Senator; Steve Cohen, Congressman; Marsha Blackburn, Congresswoman; Jim Cooper, Congressman; Chuck Fleischmann, Congressman; Phil Roe, Congressman; Stephen L. Fincher, Congressman; Diane Black, Congresswoman; Scott DesJarlais, Congressman; John J. Duncan, Jr., Congressman.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 3, 2011.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the State of Tennessee, we urge you to approve Governor Bill Haslam's request for emergency funding to help state and local authorities in Dyer, Lake, Shelby and Stewart counties to begin evacuation preparedness activities in advance of the flooding along the Mississippi, Tennessee, and Cumberland Rivers.

The flooding along the Mississippi River and its tributaries is historic. Heavy rainfall across the region has also caused major flooding along the Tennessee and Cumberland Rivers, in Tiptonville, which has been under a voluntary evacuation order since last week, the Mississippi River is forecast to reach the highest flood stage ever recorded. In the City of Memphis, the forecasted crest has been increased to 48 feet, and residents are being told to prepare for the worst. Those living along the Cumberland River in Stewart County, many of whom are still recovering from last year's floods, are also beginning to evacuate.

Governor Bill Haslam and the Tennessee Emergency Management Agency are working in cooperation with local officials to meet the needs of our citizens, but they need federal help. The requested funds are critical to support our state's evacuation efforts, which may be extensive, and we cannot afford to delay.

In light of the need to begin evacuations quickly, we urge you to consider our State's request as soon as possible, and we will provide you with any additional information about our State's needs should you have any questions.

Sincerely,

Lamar Alexander, U.S. Senator; Bob Corker, U.S. Senator; Steve Cohen, Congressman; Marsha Blackburn, Congresswoman; Jim Cooper, Congressman; Chuck Fleischmann, Congressman; Phil Roe, Congressman; Stephen L. Fincher, Congressman; Diane Black, Congresswoman; Scott DesJarlais, Congressman; John J. Duncan, Jr., Congressman.

Mr. ALEXANDER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, it is my honor to be here to support the nomination of Judge Edward Chen to the Northern District of California. I congratulate Judge Chen and I congratu-

late his family on this momentous day that is long overdue. I wish to thank Senator FEINSTEIN for her hard work and her leadership in support of Judge Chen's nomination.

I think the way we do our judge recommendations in California is exemplary. What we do is, we each have a committee that advises us, and they come up with the names of a few people who they think are the top choices. Then, each of us makes that recommendation to the President. Judge Chen was her nominee.

Judge Chen has had a distinguished career. He enjoys broad support and respect in California's legal community. When I heard the remarks of my colleague from Iowa, Senator GRASSLEY, it broke my heart because it doesn't sound to me as though he knows Judge Chen. He seems to be criticizing someone else—someone who sets aside the law. That is not Judge Chen. Judge Chen will make an outstanding addition to the Federal bench.

Since 2001, Judge Chen has served as a magistrate judge in the Northern District of California, where he has issued over 350 published legal opinions. Before coming to the bench, Judge Chen was a respected civil rights lawyer and part of the trial team that successfully overturned the wartime conviction of Fred Korematsu. He made history when he became the first Asian-American magistrate judge to serve in the Northern District. Today, Judge Chen takes another history-making step if he is confirmed—and I surely hope he will be—because when he is confirmed, he will be only the second Asian American in the 150-year history of the Northern District to be confirmed as a judge.

In our great Nation, we are a melting pot. I don't believe we can have the kind of justice our Founders envisioned unless we have juries of our peers and we have judges who also represent the broad quilt that is America. I think this is something to talk about, not to ignore.

While I am proud we are finally going to vote on the confirmation of Judge Chen, I have to again express frustration that it took so long to reach this point. Judge Chen was nominated over 21 months ago. I ask everyone to think about this—the family, everybody waiting for this moment, years and years on the bench with an outstanding record. I remember attending Judge Chen's confirmation hearing in September 2009. He was nominated for a judicial emergency seat, one that has been vacant since April 2008. That is a judicial emergency. We don't have enough judges. So one would think we would move quickly on this. Following his hearing, his nomination was held up by an unprecedented campaign of obstruction, unfortunately, by my friends in the Republican Party. They refused to allow an up-or-down vote, and they forced the White House to renominate Judge Chen, not once, not twice, not three times but four times—

four times. I tell my colleagues, I have read their objections, and they boil down to this: They object because once he worked as a staff attorney for the ACLU handling civil rights cases.

This is a man who received the highest rating from the American Bar Association. They gave him the "well qualified" rating. So I have to ask my colleagues why they would object to someone who did a good job defending the Constitution. By the way, I don't agree with the ACLU all the time, believe me. I am surprised at this objection. For example, the ACLU and the tea party in my State right now—in northern California—are working together to oppose free speech restrictions in front of the Redding Library. In fact, the ACLU and the tea party filed parallel lawsuits to strike down the restrictions.

So my friends on the other side who give the tea party a tremendous amount of support, I am a little surprised they would go after the ACLU, which is partnering with the tea party in defending the Constitution. It is hard for me to believe that because Ed Chen was once a staff attorney for the ACLU, he would come under this kind of fire.

They never objected to anything from his 9 years as a magistrate judge, not one complaint about any of the opinions he has written. Judge Chen's record as a fair and impartial judge since 2001 demonstrates clearly that he understands the difference between being an advocate and being a judge.

So I don't think we should say anyone who was ever the staff attorney for this organization or that organization is barred from getting promoted. That is a sad thing. I don't think people should be voted down or voted against because they stand for equal rights and civil rights. If anything, we ought to say: That is great, because we all want our civil rights protected. We all want our rights that are guaranteed to us in the Constitution protected.

Judge Roberts, the Chief Justice, has called on Senators to stop playing politics with judicial nominees. I have to say, to me, this sounds like politics. You don't like an organization, so then you say someone who has been a judge for 9 years—you have no complaints about him—go back 10 years and now say because you don't like that organization, they can't be promoted.

Chief Justice Roberts has warned that delays in filling vacancies has created acute difficulties in some judicial districts. That is a quote. Let me read it. The delays in filling vacancies "has created acute difficulties in some judicial districts." Certainly, we know in this district we have been in an emergency situation.

It is time to get Judge Chen seated so he can continue serving the people of northern California as a district court judge. I commend Judge Chen for his strength and his perseverance over the past 21 months. This has not been an easy process. I commend his family for

standing by him. I again commend Senator FEINSTEIN for fighting for him, and I commend everybody here who was able to somehow hammer out an agreement to have an up-or-down vote on this very talented man.

I close with great hopes that we are going to get this nominee confirmed. In advance of that—and I hope I am right in doing this—I wish to congratulate Judge Chen and his family.

I urge my colleagues to cast their votes to confirm this highly qualified and respected nominee to the Northern District and make history in doing so and be proud in doing so and know that when we put qualified people on the court who bring a different background to the court, we are doing something very positive for America. That is what America is. I am a first-generation American on my mother's side, and I can tell my colleagues what I learned from her: that we should kiss the ground in this country. As I grew up, I realized that one of the great things about our country is we are such an experiment in democracy. People from every background, every religion, differences, but we believe in one thing; that is, protection of our rights and the belief in freedoms we get from this Nation and we vow to protect those freedoms. Part of protecting those freedoms is putting people on the bench who understand that. As Benjamin Franklin once said: You have a Republic if you can keep it. The way to keep it is not to bar people from getting these up-or-down votes. Put good people on this bench. You can vote no. You can vote yes. Yes, there are times when we say we want a supermajority, but for Ed Chen, I can tell my colleagues right now, this isn't one of those times. I look forward to his positive vote.

Mr. President, I ask unanimous consent that the time that is unused during the quorum calls be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. KIRK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KIRK. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EGYPT'S POLITICAL FUTURE

Mr. KIRK. Mr. President, more than 2 months ago, a popular uprising in Egypt swept President Hosni Mubarak from power after 30 years in office. The Egyptian military is now charged with reforming that country's political system in preparation for parliamentary and Presidential elections.

History teaches us this sort of transition happens in three phases, not two.

First, the dictator falls. Next follows a weak interim government. Only then does a final permanent government enter the scene.

We remember the French Revolution with the fall of Louis XVI, then the hopefulness of the French First Republic, and then finally the rise of Napoleon.

We remember the October Revolution—first the fall of the czar, then the hopefulness of the interim Kerensky government, and finally the rise of the Soviet Union. Most recently we remember Iran—first the fall of the shah, then the hopefulness of the interim Bakhtiar government, and finally the rise of Khomeini.

Today we are watching this sequence play out in Egypt. First Mubarak fell, then came the jubilation of Tahrir Square and the hopefulness of an interim military government, and now we are left to wonder what act 3 will bring.

Will Egypt remain a strong U.S. ally in the region; will it uphold the Camp David peace treaty with Israel; will it commit to the rule of law and human rights at home; or will Egypt fall into the hands of the radical Muslim Brotherhood; will it drift toward Iran and embrace the enemies of Israel?

Unfortunately, recent developments indicate Egypt is moving in the wrong direction. The Muslim Brotherhood is gaining additional influence and may soon gain significant legislative power.

According to a poll released on April 25 by the Pew Research Center, 78 percent of Egyptians hold a favorable view of the Muslim Brotherhood—and that is better than the youth-led "April 6 Movement" that removed Mubarak from power. In September's planned elections, the Muslim Brotherhood plans to contest anywhere between 30 to 50 percent of all parliamentary seats.

Meanwhile, Egypt's foreign policy is shifting away from the United States and our allies and toward the Islamic Republic of Iran and its terrorist proxies. On April 18, Iran announced the appointment of the country's first ambassador to Egypt in 30 years. On April 27, Egyptian Foreign Minister Nabil Elaraby said he will meet with the Iranian Foreign Minister, Ali Akbar Salehi, in Indonesia on the sidelines of the Non-Aligned Movement Summit. The two officials will discuss next steps for the Iranian-Egyptian relationship. On May 3, Iran's Foreign Minister announced he would send his deputy to visit Egypt in the coming days.

Egyptian authorities helped negotiate the recent reconciliation agreement between the terrorist movement Hamas and Fatah—a major setback to Israeli-Palestinian peace. When asked to comment on Hamas being a terrorist organization, Egypt's Foreign Minister said:

[We must] allow someone who is fighting for a cause to see the light of day at the end of the tunnel and enter into peace.

On March 28, Hamas submitted a request to the Egyptian Government to

reopen its Embassy in the Gaza Strip. On April 28, Egypt's Foreign Minister announced plans to reopen the Rafah border with Hamas on a permanent basis—a potential boon to the Hamas terrorist organization. On April 30, Al Hayat reported that Hamas would be relocating its offices from Damascus—sending the terrorist group's No. 2 man, Musa Abu Marzouk, to Egypt.

Meanwhile, Egypt's commitment to democracy and human rights has suffered a serious setback following recent attacks on the country's Coptic Christian community that left scores dead and hundreds more injured. This follows the interim government's move to dismiss the Coptic governor of the city of Quena only days after his appointment—caving to mass demonstrations organized by the Muslim Brotherhood.

As one Coptic bishop told AFP:

They are led by Salafis and the Muslim Brotherhood, and they are chanting: "We won't leave until the Christians leave."

Finally, on March 28, Dr. Maikel Nabil Sanad, a 25-year-old blogger, was arrested for "insulting the military," and "disturbing public security" after posting comments on his blog that were critical of the military's role in the protests. This arrest clearly violated the International Covenant on International and Political Rights and the new government's commitment to the fundamental freedoms of its people. If Egyptians could freely express their views in Tahrir Square, they should have the freedom to express their views online.

Mr. President, the trajectory of Egypt's revolution now faces two distinct scenarios: It could become a secular American ally that respects the rule of law, diversity, and a peace treaty with Israel; or it could become a Muslim Brotherhood-controlled ally of Iran that embraces terrorist groups such as Hamas, persecutes its own religious minorities, and rejects peace with Israel.

We must do everything in our power to support the secular forces of Egypt or face the prospect of a strategic setback on the scale of Iran in 1979, laying the foundation for potentially yet another war in the Middle East.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Madam President, am I correct that we are now on the nomination of Ed Chen to the District Court for the Northern District of California?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. LEAHY. Madam President, today the Senate will finally consider the

nomination of Judge Edward Chen to fill a judicial emergency vacancy on the District Court for the Northern District of California. Since 2001, Judge Chen has been a well-respected Federal Magistrate Judge on the court to which he is now nominated to serve as a Federal District Judge. His nomination has received the strong and consistent support of his home state Senators, Senator FEINSTEIN and Senator BOXER, since he was first nominated over 21 months ago. When he is confirmed, Judge Chen will be only the second Asian Pacific American to serve on the district court bench in the 150-year history of the Northern District of California. The debate and vote we have today are long overdue.

We are finally able to consider Judge Chen's nomination because of the vote the Senate took last week toward restoring a longstanding tradition of deference to home state Senators with regard to Federal District Court nominations. The Senate turned away from a precipice when 11 Republican Senators joined in voting to end a filibuster of the nomination of Jack McConnell to the District Court for the District of Rhode Island. In doing so, a super majority of the Senate came together to reject a new standard, which I believe is being unfairly applied to President Obama's district court nominees. Now, nearly 20 months after his confirmation hearing, and after having had his nomination reported favorably by the Judiciary Committee four times, Judge Chen's nomination will at last have an up-or-down vote in the Senate.

We should have taken up and confirmed his nomination when it was first reported favorably by the committee nearly 19 months ago. The supposed "controversy" that has delayed and obstructed this nomination is in my view entirely misplaced, the result of applying a partisan litmus test. This should be an easy nomination to confirm. It is no surprise that Judge Chen's nomination received the highest possible rating from the American Bar Association's Standing Committee on the Federal Judiciary, unanimously "well qualified," since he has had a distinguished legal career and has issued over 350 judicial opinions in his decade as a Federal magistrate judge.

Judge Chen's nomination has received broad, bipartisan support from the judicial and legal community in California and from numerous bar associations, including the National Asian Pacific Bar Association, which has been a vocal proponent of this nomination. Judge Chen's nomination also has significant support from local law enforcement in the district he currently serves and would continue to serve if confirmed. Michael Hennessey, sheriff for the city and county of San Francisco, wrote: "Judge Chen's solid record as a U.S. Magistrate Judge speaks for itself. He has published over three-hundred judicial opinions which are indicative of his work ethic and his thoughtful intellect as a respected

magistrate judge." This praise is representative of the scores of letters of support we have received.

I thank Senator FEINSTEIN for her strong advocacy for Judge Chen's nomination the four times it has been considered and favorably reported by the Judiciary Committee. Any fair minded person who listened to the impassioned speeches Senator FEINSTEIN has made about Ed Chen in the committee would have to be impressed. Senator FEINSTEIN is right to be proud of her recommendation of Ed Chen to President Obama. As Senator FEINSTEIN has explained, Judge Chen was the recommendation of her bipartisan Judicial Advisory Committee in California, putting the lie to the caricature from the far right that this was a partisan nomination. This is a fine man with sterling legal credentials and all the qualifications needed to be an outstanding Federal judge.

The approach taken by opponents of Judge Chen's nomination threatens to take the Senate down a dangerous path of imposing partisan litmus tests in place of our constitutional duty to offer advice and consent on nominations. The debate in our committee on Judge Chen's nomination was ugly. One Republican Senator in explaining his opposition said that Judge Chen has the "ACLU gene." I hope that we do not hear such a preposterous notion repeated today on the floor of the Senate. This is a distinguished Federal magistrate judge who has demonstrated that he knows how to be a fair and impartial judge.

Our legal system is an adversary system, predicated upon legal advocacy for both sides. Certainly defending civil liberties is no vice. The other side appears to be suggesting that Judge Chen's work as a staff attorney at the ACLU many years ago, primarily representing individuals in discrimination and civil rights matters, somehow renders him unfit to be a judge. Since when do we impose a litmus test for nominees that they can never have been legal advocates? If we were to do that, we would have no judges. Almost every nominee who had been a practicing lawyer would be disqualified by one side or the other.

Surely Judge Chen's work while in private practice as a member of the legal team that represented Fred Korematsu in a lawsuit that successfully overturned his prior conviction for violating the Japanese Internment Order during World War II does not render Judge Chen unfit to be a judge. In my view, that important advocacy to right a wrong from one of the dark chapters in our history serves as proof that President Obama made a wise choice in nominating Judge Chen for the Federal bench. Indeed, just a few years ago this Senate passed a resolution acknowledging that wrong and seeking to help right it.

The question for me about this nominee is the same question I have asked about every judicial nominee, whether

nominated by a Democratic or a Republican president whether he or she will have judicial independence. Does the nominee understand the role of a judge, and how it differs from the role of an advocate?

With this nominee, Judge Chen, that is not a hard question to answer. We know that he understands the role of a judge because he has been doing it for 10 years on the court to which he has now been nominated. As Judge Chen said in response to a question from Senator SESSIONS: "The role of a judge is to be fair, neutral, and evenhanded in applying the law and finding facts . . . without regard to personal preferences." His 10 years as a Federal magistrate judge resoundingly have answered any concerns about bias or partisanship on his part. His testimony before the Judiciary Committee reflects his understanding of the proper role of a judge.

There was no need for the delays that plagued this nomination. There were no "extraordinary circumstances" that held up this nomination for nearly 2 years. With judicial vacancies at crisis levels, affecting the ability of courts to provide justice to Americans around the country, we should be debating and voting on each of the 12 judicial nominations reported favorably by the Judiciary Committee and pending on the Senate's Executive Calendar, in addition to Judge Chen. No one should be playing partisan games and obstructing while vacancies remain above 90 in the Federal courts around the country.

Judge Chen, born and raised in Oakland, CA, as the son of two Chinese immigrants, spent much of his childhood helping his mother and siblings support a small family business after his father passed away. After earning his A.B. from the University of California, Berkeley, in 1975, and his law degree from Boalt Hall School of Law in 1979, Judge Chen clerked for Judge Charles Renfrew on the court to which he has now been nominated, the Northern District of California, and then for Judge James Browning on the Ninth Circuit. After a distinguished career in private practice and as a staff attorney for the American Civil Liberties Union Foundation of Northern California, Judge Chen was selected to serve as a Federal Magistrate Judge for the Northern District of California, having since been reappointed upon the recommendation of the nonpartisan Merit Selection Review Panel. His story is a moving reminder of what it is possible to achieve in this great Nation through hard work.

I congratulate Judge Edward Chen and his family on his confirmation today. I commend Senator FEINSTEIN and Senator BOXER for their steadfast support of his nomination.

Madam President, I suggest the absence of a quorum. Is time being divided?

The ACTING PRESIDENT pro tempore. Yes, it is.

Mr. LEAHY. I ask unanimous consent that the time be equally divided during the quorum call.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant editor of the Senate Daily Digest proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I see the distinguished senior Senator from California on the floor. I will yield, of course, to her. She has been indefatigable in her support of Judge Chen in the committee, in the Halls of the Senate, and in her steadfast work with the leadership to get this nominee before us. I can brag about all the work she has done easier than she might, but I hope Judge Chen and his family know they had as strong and as stalwart a supporter on the Senate Judiciary Committee as they could possibly have with Senator FEINSTEIN.

With that, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant editor of the Senate Daily Digest proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I wish to thank Chairman LEAHY for his leadership on this particular judgeship. I believe he is accurate in everything he said, and I very much appreciate his stalwart support.

I rise to add my support to the nomination of U.S. Magistrate Judge Edward Chen to become a U.S. district judge in the Northern District of California. I recommended Judge Chen to the President, so obviously he has my strong support.

I wish to tell my colleagues a little bit about him. He was born and raised in Oakland, and he is the son of Chinese immigrants. His father immigrated to the United States in the 1920s, and that was followed by his mother in the 1930s. He attended public schools in Oakland and then went on to the University of California at Berkeley, where he received his undergraduate degree with great distinction, and then on to Boalt Hall School of Law, where he graduated in the top 10 percent of his class.

He was a law clerk to District Judge Charles Renfrew on the U.S. District Court for the Northern District of California, as well as to Circuit Judge James Browning on the U.S. Court of Appeals for the Ninth Circuit. He then began his legal career as a litigator, first at the private law firm of Coblenz, Patch, Duffy, and Bass and

later as a staff attorney at the American Civil Liberties Union.

In 2001, he was appointed to be a U.S. magistrate judge for the Northern District of California, and he has served in that capacity for the past 10 years.

So today Judge Chen is a solid, tested, and respected judge with over a decade of experience on the Federal bench. In these 10 years as a judge, he has written more than 350 published opinions. I would point out that not one of those opinions has been criticized by anyone in the 20 months this nomination has been awaiting action in the Senate. Nor has there been any criticism of any of his published opinions.

In fact, there is a broad consensus among those who have reviewed his judicial record that he is indeed a very good judge.

He was recommended to me by a bipartisan judicial advisory committee. That committee reviewed his record, and spoke with judges, attorneys, and litigants who knew his work as a judge. The committee unanimously recommended that I forward his name to the President, and I did.

The San Francisco Bar Association has rated him "exceptionally well qualified." The American Bar Association has rated him "well qualified"—their highest rating. And in 2009, a merit selection review panel, appointed by the U.S. District Court, thoroughly reviewed his record and recommended him for reappointment as a magistrate judge. That panel consisted of seven lawyers appointed by the district court. They solicited public comments on Chen's work as a judge. Only positive information was forthcoming.

They talked to Federal prosecutors in the U.S. Attorney's Office. Again, the reports were uniformly favorable. Prosecutors called Chen's analytical skills "exemplary" and said his rulings were "balanced and well reasoned."

Defense attorneys were similarly positive. They described Chen as "respectful" and "considered" in his judgments.

Partners with large law firms called Chen "prompt," "well-prepared," "very intelligent" and "decisive."

Overall, the panel recommended unequivocally that Chen be reappointed for a second 8-year term as a magistrate judge. Obviously, he has served 2 years of that second term.

I have the panel's full report here and would be pleased to share it with any Senator who wishes to review it.

Since Chen's nomination for the district court, the reports we have received in the Senate from those who know Chen's work as a judge have been similarly positive.

We have received letters urging Chen's confirmation from Republicans and Democrats, public officials and law enforcement, judges, civil rights groups, business leaders, and private lawyers. Let me share a few with you.

Judge Lowell Jensen, whom I have followed for decades, was appointed to the U.S. District Court by President

Reagan. He also served as second in charge of the Department of Justice during the Reagan administration. He has worked closely with Chen on the Federal bench and had this to say about him, and this is a direct quote:

I have found Judge Chen to be both an excellent jurist and a person of high character. He brings a conscientious, careful, and impartial approach to every issue and every party. The decisions he makes reflect not only good judgment but a complete commitment to the principles of fair trial and the application of the rule of law. I support his confirmation without reservation.

I can say that Judge Jensen is one of the most distinguished judges in California.

Former U.S. District Judge Fern Smith was also appointed by President Reagan to the Federal court. She writes:

Both in my own dealings with [Judge Chen] and based on his reputation among my former colleagues, I can attest to his intellectual competence, his respect for the law, his judicial temperament, and his integrity. I have no doubt that Ed Chen would do honor to any of our 94 United States District Courts.

We have a letter from the president of the San Francisco Police Commission, a lifelong Republican, Thomas Mazzucco. He published an op-ed in the Roll Call urging the Senate to confirm Chen and calling him "an experienced judge who understands the distinction between personal preference and judicial obligation, and who has always based his rulings—more than 300 decisions over eight years—solely on the law and the merits of a case."

The San Francisco Deputy Sheriffs Association said this:

Chen has earned a reputation as an evenhanded jurist who is constantly mindful of the role that judges such as himself fulfill in our society: as keepers of the rule of law and public trust in our system of justice.

I have over 50 more letters, if anyone wishes to read them. They come from the mayors of San Francisco, Oakland, and San Jose; the sheriff, city attorney, former chief of police, and former U.S. Marshal of San Francisco; the last 10 presidents of the bar association of San Francisco; the congressional Asian Pacific American Caucus; the National Asian Pacific American Bar; and many others.

The judgment is clear: Ed Chen is fair. He is impartial. He is an excellent jurist, and has been for 10 years, and he deserves to be confirmed.

You come back to Washington and what happens? Here is the story. Despite this long judicial track record and broad bipartisan support, this nomination has been sitting in the Senate for more than 600 days.

The President first nominated Chen on August 6, 2009. That was 643 days ago. Since that time, the minority has required the nomination to be sent back to the President three different times. The Senate Judiciary Committee has had to consider the nomination four different times.

This is extraordinary—but then the Republicans have an extraordinary

search engine. I will talk about that in a minute.

This is a district court nominee with 10 years of judicial experience, with not a blemish on it. When other judicial nominees have come before the Senate, they have been criticized because they didn't have judicial experience or because there was no judicial track record to review. Well, here is a nominee who has both. Ten years on the bench; bipartisan support and uniformly positive reviews; more than 350 published opinions, and there has not been a single criticism of a single one. But his nomination has been sitting in the Senate for 600 days and sent back to the President 3 separate times.

I find this to be a deeply disappointing testament to the situation we face in the Senate today. Let me pose the question that Police Commissioner Mazzucco—a Republican—asked in his op-ed:

If Judge Chen—an experienced judge whose judicial record proves he is committed to the rule of law, without bias or favor, and who is widely respected by the bar that has practiced before him—isn't qualified for the Federal bench, then who is?

I echo that.

So what happened here? Well, let me take a few moments to address a couple of the attacks that have been made on Judge Chen.

First, Judge Chen has been criticized because he worked as a staff attorney for the ACLU long before becoming a judge. No one disputes that. Chen was once an advocate, and that is a fact. But he also has a 10-year record to prove that he has made the transition. He was once an advocate. He is now a judge—and a darn good judge.

As a coalition of Northern California Asian American Bar Associations wrote:

Chen has made a successful transition from a zealous advocate to a balanced and conscientious adjudicator who is committed to the impartial and active administration of justice.

Former Federal prosecutors from the Northern District of California made the same point. They wrote:

Judge Chen consistently treats all sides evenly and impartially, and conducts himself with the utmost propriety, as is fitting for a judge. . . . While we are aware of his previous position as a staff attorney at the ACLU of northern California, Judge Chen does not show favoritism toward the parties or issues before him.

The record is available. The evidence is in. Chen understands the unique role of the impartial adjudicator. He knows what it means to decide cases evenhandedly. He has been doing it for more than 10 years.

Let me turn then to some speeches that the "search engine" turned up. Since 2009, the Washington Times and others have used a handful of quotes from speeches Chen has given to try to paint him as someone he is not. As happens far too often, those quotes have been cut, spliced, and taken out of context. Let me give you an example.

The effort to label Chen as a "radical" is based on a speech he gave to

students following the funeral of a man by the name of Fred Korematsu. I want to take a moment to explain Korematsu and the case. Some of you may be too young to remember Mr. Korematsu and his fight against Japanese internment during World War II, but I am not.

One of the singular experiences of my lifetime was when my father took me, as a small child, to the Tanforan Racetrack. That racetrack was a few miles south of San Francisco. During World War II, it was taken out of action as a racetrack and turned into an internment camp. It was fenced with barbed wire. Small buildings lined the center portion of the track. This is a photo of it. Here is the racetrack and here are the buildings. This is where Japanese Americans were essentially incarcerated for the remainder of World War II.

Let me show you this. This is the order, which is from the Western Defense Command and Fourth Army War-time Civil Control Administration—instructions to all Americans of Japanese ancestry living in the following area, which is the city and county of San Francisco, lying generally west of the north-south line, and it describes that. It says:

All Japanese persons, both alien and non-alien, will be evacuated from the designated area by twelve o'clock on Tuesday, April 7, 1942. No Japanese person will be permitted to enter or leave the above-described area after 8 a.m. Thursday, April 7—

That is over half of the city of San Francisco.

without obtaining special permission from the provost marshal at the Civil Control Administration.

Then they are told where they are to report—to the Civil Control Station—to receive further instructions. This must be done between 8 a.m. and 5 p.m., Thursday, April 2, or between 8 a.m. and 5 p.m., Friday, April 3.

That is their notice. They turn up, get in a bus, and then this is where they go, and where they remained until the end of the war.

One young Californian, Fred Korematsu, challenged the internment. He took his case all the way to the U.S. Supreme Court, and he argued that the U.S. Constitution did not permit loyal American citizens to be forced into these camps solely because of their Japanese-American heritage, which was the case here. The Supreme Court heard his case, but he lost in a decision that is considered by many to be a black stain on the jurisprudence of our Supreme Court.

Decades later, in 1983, Korematsu challenged his conviction again. This time, he was represented by a team of volunteer lawyers, including Edward Chen. This team put forward newly discovered evidence that demonstrated that prosecutors in Korematsu's original case had withheld evidence, specifically, U.S. Government intelligence at the time indicating the internment was not justified.

This time they won. So four decades after the original internment order,

Fred Korematsu's conviction was overturned by the district court, and, four years later in 1987, President Ronald Reagan signed into law the Civil Liberties Act, issuing a formal, national apology for the Japanese internment.

So this was the context of the speech in which Chen was speaking to a group of students and reflecting on the funeral of Fred Korematsu. He said in the speech that, at times, he had experienced "feelings of ambivalence and cynicism when confronted by appeals to patriotism." He was referring to the internment of Japanese-American citizens for no cause other than they happened to be of Japanese heritage. I would think you could get a bit cynical about that. People who did not see this do not believe it ever happened. But it did happen, and it happened here. This was the condition in which people were kept. It is not right.

But critics have picked out this line—"feelings of ambivalence and cynicism when confronted by appeals to patriotism"—and tried to use to paint Chen as unpatriotic. But they did not know the context. Sometimes things that have monumental importance at the time, such as the internment of Japanese-American citizens without due process, fade too quickly from our historical memory. I thought I would bring it back so this body could understand the total context.

This was a very big deal. It was not a proud moment for our country. Congress and President Reagan rightfully issued a formal apology for the injustice that was done years later.

To take a quote from a speech after Fred Korematsu's funeral and to use it to try to imply that Edward Chen does not love his country—it is shameful. It is also flatly inconsistent with the rest of the speech. Chen went on to say that when the congregation sang "America the Beautiful" at Korematsu's funeral, he was moved to tears because "the song described the America that Fred envisioned, the America whose promised beauty he sought to fulfill, an America true to its founding principles."

Fred Korematsu is no longer with us, but his daughter Karen sent me a letter about Edward Chen. Here are some of her words:

My father's belief in our Constitution was unwavering, even when he was treated unfairly. Like my father, Judge Chen is adamant about upholding the Constitution, without bias or prejudice.

In my view, Edward Chen is a judicial nominee who has been treated extraordinarily unfairly. But he remains steadfast in his commitment to serving our country as a Federal judge, and he has a 10-year unblemished judicial track record to show that he will serve us exceedingly well.

I urge my colleagues to vote yes on the nomination of Judge Edward Chen to be a district judge for the Northern District of California.

I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

All time has expired. The question is, Will the Senate advise and consent to the nomination of Edward Milton Chen, of California, to be United States District Judge for the Northern District of California?

Mr. LEE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 68 Ex.]

YEAS—56

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bingaman	Johnson (SD)	Reed
Blumenthal	Kerry	Reid
Boxer	Klobuchar	Sanders
Brown (MA)	Kohl	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Collins	Manchin	Udall (NM)
Conrad	McCaskill	Warner
Coons	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murkowski	

NAYS—42

Alexander	Enzi	Lugar
Ayotte	Graham	McCain
Barrasso	Grassley	McConnell
Blunt	Hatch	Moran
Boozman	Heller	Paul
Burr	Hoeven	Portman
Chambliss	Hutchison	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Sessions
Corker	Johnson (WI)	Shelby
Cornyn	Kirk	Thune
Crapo	Kyl	Toomey
DeMint	Lee	Wicker

NOT VOTING—2

Rockefeller Vitter

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to a period of morning business for debate only until 7 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 2 p.m. tomorrow, May 11, the Senate proceed to executive session to consider the following nomination: Calendar No. 44; that there be 1 hour of debate, equally divided, in the usual form; that upon the use or yielding back of time the Senate proceed to vote without intervening action or debate on Calendar No. 44; that the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. TESTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIG OIL

Mr. TESTER. Mr. President, I rise in support of legislation I am proud to co-sponsor—to finally end the taxpayer handouts to the world's largest oil companies—as they rake in record profits. This measure is about accountability. It is about responsibility. It is about fairness.

When I got off the tractor from planting last weekend and went to fill my tank, it was \$3.69 in Big Sandy, MT—almost a dollar higher than just a few months ago. But while I am paying close to \$4 gallon at the pump, like other working Americans, oil company executives are padding their stock options and bonuses. They are diminishing their investment here in America, choosing instead to use tax loopholes to offshore their production.

I would like to make just three quick points today about the over \$4 billion in tax earmarks that the biggest oil companies in America are receiving today.

First, they never asked for them.

Second, they don't need them.

And finally, they are not good for America—or our economy.

These taxpayer handouts are running up our national debt, taking our jobs overseas, and they expose us to higher gas prices.